In the High Court of Judicature at Madras

Dated: 21.12.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice S.TAMILVANAN

Writ Petition Nos.2816, 4002 of 1999, 9118, 9122, 13618 of 2000, 8877, 9217, 11234, 11358, 23333, 25460 of 2001, 8107, 11983, 14898, 22405, 33900 of 2002, 8200, 23664, 23665, 24348, 33894 of 2003, 26308, 26538, 32704 of 2004, 7744, 29545, 32134 of 2005, 10083, 19095 and 29289 of 2006
and connected miscellaneous petitions.

W.P.No.2816 of 1999:

Premier Housing and Industrial
Enterprises Ltd., rep. by its
Executive Director
No.498, Anna Salai, Chennai 35. ..Petitioner

..vs..

1. State of Tamil Nadu,
   rep.by the Secretary to Government
   Housing & Urban Development Department,
   Secretariat,
   Fort St.George, Chennai-600 009.

2. The Member Secretary,
   Chennai Metropolitan
   Development Authority,
   No.8, Gandhi Irwin Road,
   Egmore, Chennai-600 008.

3.The Chairman
  Chennai Metropolitan Water
  Supply and Sewerage Board
  No.1 Pumping Station Road
  Chennai 2.

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4.Premier Grihalakshmi
Flat Owners Welfare Association
rep. By its Secretary
T. Govindan Kutty. ..Respondents

1.C.Aryama Sundaram

2.Kamakshi Sundaram,
rep. by power agent
M/s. chaithanya Builders & leasing
by its Chairman,
V.Rameshkumar Reddy ..Petitioner in WP 4002/1999

1.P.R.Krishna Moorthy ..Petitioner in WP 9118/2000

1.C.V.Gopalakrishnan

2.C.V.Mohana, rep. by
their Power of Attorney
agent N.Sairam ..Petitioner in WP 9122/2000

1.S.S.Natarajan ..Petitioner in WP 13618/2000

1.M/s. Economist Communication
Limited, Plot No.S-15,
Thiru-vi-Ka- Industrial Estatge
Guindy, Chennai-32 ..Petitioner in WP 8877/2001

1.M.Hariharan
Madras -33 ..Petitioner in WP 9217/2001

1.Mrs. Vidya Pratap
2.Dr.Veena Rao
3.Sri.S.Krishnasamy
rep. by their power of
attorney agent
N.Sairam ..Petitioners in WP 11234/2001

1.C.Yegammal ..Petitioner in WP 11358/2001

1.M/s. Emgeeyar Pictures (P) LTd.,
rep. by its Registered
Power Agent, Harshad V.Doshi ..Petitioner in WP 23333/2001

1.T.K.Kameshwaran
2.T.K.Rajagopalan
3.T.K.Venkataraman, ..Petitioner in WP 25460/2001

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1.Mrs. J.N.Sanghvi
2.Mr.Yogesh B.Sanghvi
3.Mr.Ganesh B.Sanghvi ..Petitioner in WP 8107/2002

1.Mrs. Parvathi Menon
rep. by her Registered
Power Agent Mr.Harshad
V.Doshi ..Petitioner in WP 11983/2002

1.Smt. Peesapati Indira
Chennai -41 ..Petitioner in WP 14898/2002

1. Mr.Kamalesh Kumar Seth Petitioner in WP.No.22405/02

1. T.V.Sathyanarayanan Petitioner in WP.No33900/2002

1. T.S.Sankaran
rep by its Power of Attorney Agent
Mr.Kishor Kumar Gokaldas

Petitioner in WP.No8200/2003

1. M.Kanthilal

2. M.Vijayakumar
both rep. by Power of Attorney
P.Murali Mohan Petitioner in WP.No23664 & 23665/2003

1. M/S.The India Company Pvt., Ltd,.
rep. by its Managing Director,
rep by Power of Attorney Agent,
N.Sairam Petitioner in WP.No.24348/2003

1. Moolchand Maheswari Petitioner in WP.No33894/2003

1. Prakash Jain Petitioner in WP.No.26308/2004

1. V.Subramaniyam Petitioner in WP.No.26538/2006

Dr.N.Lakshman Rao Petitioner in WP.No.32704/2004

T.V.Sathiyanarayanan Petitioner in WP.No7744/2005

Mr.A.Nirmal Gadhiya Petitioner in WP.No29545/05

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M/S.Essorb Hotels Pvt., Ltd.,
rep. by its Managing Director,
Mr.P.V.R.Kutty Menon
having its Office at
No.1089, E.V.R.Salai,
Poonamallee High Road, Petitioner in WP.No.32134/2005

1. K.Narasa Reddy
Kencers Contruction Pvt., Ltd.,
No.1, Ramakrishna St,
T.Nagar, chennai - 17. Petitioner in WP.No10083/2006

1. Mr.c.Subba Reddy Petitioner in WP.No.19095/2006

1. Mr.M.Chandru Petitioner in WP.No.29289/2006

VS

1. The State of Tamil nadu,
rep by its Secretary to Government,
housing and Urban Development
Department Madras 9.
...Ist respondent in WP.9122/2000
WP.8877/2001, WP.9217/01, WP.11234/2001,
11358/2001, 23333/2001, 25460/01
8107/2002, 11983/02, 24348/03, 32134/05
19095/06, 33900/02 8200/03, 23664/03
23665/03.

2. The Member Secretary
Chennai Metropolitan
Development Authority
Chennai 8. ...1st Respondent in WP.4002/99; 14898/02
...1st Respondent in WP.9118/00; 33894/03
...2nd Respondent in WP.9122/00;
...1st Respondent in WP.13618/2000
...2nd Respondent in WP.8877/2001

WP.9217/01, WP.11234/2001, 11358/2001, 23333/01,
25460/01, 8107/02, 11983/02, 24348/03,
32134/05, Ist Respondent w.P.26308/04, 26538/04
32704/04, 7744/05, 29545/05 10083/2006 2nd
Respondent in WP.19095/06 WP.29289/06 22405/02
33900/02 8200/03 23664/03 23665/03

3. The Chairman cum Managing Director,
Chennai Metro Water and Sewerage Board,
Chennai 2. 2nd Respondent in WP.No.9118/2000 2nd

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Respondent in WP.13618/00 WP.14898/02
26308/04 26538/04 32704/04, 7744/05
29545/05, 10083/06, 9289/06, 22405/02.

4. Chennai Metropolitan Water Supply and
Sewerage board, rep by its Chairman and
Managing Director, 1, Pumping Station Road,
Chennai 600 002. 3rd Respondent WP.9122/00, WP.8877/2001

WP.9217/01 11234/01, 11358/01, 32134/05,
23333/2001, 25460/01, 8107/2002,
11983/2002, 24348/2003, 2nd respondent in
3rd Respondent in WP.33900/02 8200/03
23664/03 and 23665/03.

Writ petitions filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus as stated therein.

WP.2816/99: to call for the records relating to impugned letter No. C3/16559/98 dated 28.9.98 on the file of the 2nd Respondent and quash the same as illegal arbitrary, with jurisdiction and direct the 2nd respondent to issue Revised planning permission on the petitioners application dated 16.10.1996 and pass order suitable orders.

WP.4022/99:- to call for the records of the Respondent in Letter dated B2/26531/96 dated 22.2.99 and quash the same further direct the respondent not to insist for payment of Rs.4,87,900/- towards Metro Water Infra structural Development charges but to accept the payment already tendered by the petitioner and issue the planning permission.

WP NO. 9118/2000

to calling from the records relating to the impugned letter of the 1st Respondent vide Letter NO. B2/6708/2000-dated 11.05.2000 and to quash the same and directing the first respondent to release the planning permission approval to the petitioner vide their approval No. B2/6708/2000 dated 11.05.2000

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WP 9122/2000 AND WP NO. 8877/2001

To calling for the records comprised in the proceedings of the Second Respondent dated 08.03.2000 and 04.04.2001 in Lr No. B1/31999/99 in Lr No. 32/885/2001; and quash the same in so far aso it relates to payment of infrastructural Improvement charges and consequently direct the grant of planning permission for construction at NO. 31, I Main Road, R.A. Puram, Chennai (RS NO.

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3927/38-Block No. 86 Mylaplore Division) TS NO. 30/2; 31/2; 32/2 Block N o. 6 of Alandur Village in Plot NO. S-15 Thiru-vi-Ka Industrial Estate Guindy, Chennai - 32 without insisting on infrastructural. Improvement charges or any other levy as such are unreasonable and illegal.

WP NO. 11358, 11234 and 9217/01

to calling for the records comprised in the proceedings of the 2nd Respondent in Lr N O. C3/14741/2001- dated 17.04.2001; in Lr. No. B2/14182/2001 dated 31.05.2001; Lr No. B1/53226/2000 dated 14.06.2001 and quash the same in so far as it relates to payment of infrastructural improvement charges and consequently direct the respondents grant of planning permission for construction at T.S. 65/1 Ko 14 Block No. 40; Thiruvanmiyur Village, Door NO. 72/1 Ko 14, Muttukadu Road, construction of dewelling units at T.S .NO. 12/37 Block NO. 4, of venkatapuram Village in D. NO. 4/10, North Avenue Srinagar Colony Saidapet, Madras 15 and construction at R.S. NO. 450/19-Block No. 26, Egmore village Door NO. 69 Spurtank Road, Chetpet Madras - 31 without insisting of infrastructural improvement Charges or any other levy.

WP NO. 13618/00

To call for the records relating to the impugned letter of the 1st Respondent vide letter No. b2/6156/2000 dated 05.07.2000 and quash the same and direct the first respondent to release the planning permission approval of the petitioner vide their approval No. B2/6156/2000 dated 05.07.2000

W.P.23333/2001; 25460/2001; 8107/2002 W.P.11983/2002:-

to calling of the records comprised in the proceedings of the 2nd respondents dt 9/11/01 in Lr. No B2/32856/2001; dt 19/11/2001; in Lr. No. C3/51171/2000; dt 15/2/2002 in LR.No C3/38587/2000; dt 21/3/2002 in Lr.No B1/36075/2001 and quash te same in so far as it relates to pay of infrastructural improvements charges and consequently direct the grants of planning permission for construction of dewelling Units at old No.9, New No.17 Dhandapani Street, Chennai-17, and at old No 40, New No.81, Royapettah High road, Ms.14; and at No.25, Sardar patel Road, Guindy, Madras -20, and at Door No.1, East Mada Street, Srinagar Colony, Saidapet Chennai.

W.P.No14898/2002:-

to Calling for the records relating to the impugned letter of the Ist respondent to release the planning permission approval to the petitioner vide their approval.No.B2/26716/2001 dated 19/04/2002.

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W.P.No24348/2003:-

Declaring that the provisions of the Secion 81 (ii) of the CMWSSB.Act as ultra vires, illegal and unconstitutional and enenforceable in so far as it relates to the levy and collection of infrastructure development charges for the proposed development and consequently direct the respondent to grant planning permission for the construction of commercial building (shops and offices) at no. 156, Greams Road, ;Nungambakkam, Chennai in Rs.No 39/9, Block No.8 without insisting as payment of infrastructure improvement charges as contained in the comunication dated 28/07/2003 in LR.No.B(C1)/ 11818/2003.

WP.No.33894/2003: To cal for the records pertaining to the communication of the 1st Respondents bearing Lr.No.Reg.A.5/1381/2002 dated 19.9.2003 and quasht eh same;

WP.Nos.26308; 26538/04; 7744; 29545/05; and WP.10083; 29289/06 declare that the amendment Section 6 [2][xii-a]81[2][ii] of Chennai, Metropolitan water supply and Sewerage Board Act are ultravirus, Unconstitutional, Arbitrary and Colourable exercise of Power and forbearing the Second Respondent from insisting the payment of infrasturcture and development charges on behalf of the 1st Respondent;

WP.No.32704/2004 to call for the records of the 1st Respondent in Lr.No.Reg/C.6/5689/2002 DT. 22.9.2004; IN so far as the demand of Metrowater Infrastructure charges payable in favour of 2nd Respondent to regularisation of building put up at No.3[New] Cresent Park Road, Gandhi Nagar, Adyar, Chennai 20, by quashing the same.

WP.No.32134/2005 to call for the records of the Second Respondent in Letter No.C.3/26907/2004 dt. 31.8.2005 and signed on 2.9.2005 and quash the same in so far as it relates to payment of infrastructural improvement charges of Rs.10,56,900/- and consequently direct the grant of planning permission for construction of dewelling units at Door No.1089, Poonamallee High Road, Madras 7.

WP.No.8200/2003: issue a Declaration that Section 6(xii-a] and Sec.81-[2][ii] of Madras Metro Water Supply and Sewerage Board, Act 1978 as amended by Act 49/98 prescribing demand of infrastructural Development/Improvement charges is arbitrary, Ultravirus, illegal, Unconstitutional unenforcable in law in so far as the Security Depositor/Petitioner is concerned and consequently forbearing the Respondents from enforcing the letter No.C.3/24410/2005 dt. 2.5.2006 on the file of the 2nd Respondent demanding Rs.16,33,000/- in WP.19095/6 and consequently direct the Respondent to issue Planning permission of the land situated at Old No.5, New No.9,

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Third Seaward Road, in S.No.210/2A[Part] T.S.No.33 and 35-Block NO.63, Thiruvanmiyur, Chennai 41.

WP 22405/2002

Call for the records relating to the impugned letter of the First Respondents vide Letter No. C3/30041/2001 dt. 8.4.2002 and quash the same and directing the first Respndent to release the planning permission approval to the petitioner vide their approval No. C3/30041/2001- dt.8.4.2002

WP 33900/2002:-

Calling for the records of the IInd Respondent comprised in Lr.B2/15097/02 dt. 16.7.2002 and quash the same in so far as in related to payment of infrastructural improvement charges and consequently direct the Respondent to grant planning permission for construction of dewelling units at Door No. 33, VII Avenue Ashok Nagar, in T.S.7/1, 7/2. B.No. 6701 of Kondambakkam Village, Chennai without insisting on payment of infrastructural improvement charges.

WP 23665/2003:-

Declaring that the Provision of S.81(11) of CMWSSB Act 1978 as ultravires, illegal, unconstitutional and unforceable in so far as it relates to levy and collection of infrastructure development charge for proposed development and consequently direct the Respondents to issue planning permission for proposed development consisting of Double Basement Floor Plus Ground Floor Plus 9 Floors (3 Blocks) Office Building at T.S.No. 24/1. Block No.8, Door No.184, and 185.Little Mount Annasalai, Chennai, without insisting on infrastructure Development charges as contained in the communication dt. 14.7.2003 in Lr.No. C3/35402/2002 of the Second Respondent in WP 23664/2003; and calling for the records of second Respondent- comprised in Lr.No.C3/35402/2002 dt. 14.7.2003 and quash the same in so far as it related to payment of infrastructural improvement charges and consequently direct the Respondents to grant planning permission for construction consisting of double Basement floor plus ground floor plus 9 floors (3 Blocks) Office Building at T.S.No. 24/1, Block No.8, Door No. 184, 185, Little Mount, Anna Salai.

Mr. R. Gurunathan for petitioner in WP.No.2816 of 1999.

Mr. George Cheriyan for petitioner in WP.No.4002 of 1999.

Mr. S. Sundaresan for petitioner in WP.Nos.9118 & 13618 of 2000, 14898 & 22405 of 2002, 29545 of 2005 and 29289 of 2006.

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Mr. Satish Parasaran for petitioner in WP.Nos.9122 of 2000, 8877, 9217, 11234, 11358 of 2001, 33900 of 2002, 23664, 23665, 24348 of 2003.

Mr. K. Venkasubramanian for petitioner in WP.Nos.23333 & 25460 of 2001, 8107 & 11983 of 2002, 32134 of 2005.

Mr. P. Rathinadurai for petitioner in WP.No.13226 of 2002.

Mr. K.V. Babu for petitioner in WP.No.8200 of 2003.

Mrs. Rita Chandrasekaran for M/s. Aiyar & Dolia for petitioner in WP.No.33894 of 2003.

Mr. R. Mohan for petitioner in WP.Nos.26308, 26538, & 32704 of 2004, 7744 of 2005, 10083 of 2006.

Mr. P.B. Ramanujam for petitioner in WP.No.19095 of 2006.

Mr. J. Ravindran for CMDA in all the Wps.,

Mr. S. Ramasamy, AAG-II, assisted by Mr. K. Elango, Spl.G.P. For State in all the Wps.,

Mr. N. Duraikannan for Metro Water in all the Wps.,

COMMON ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

It is not in dispute that the present writ petitions are liable to be dismissed in the light of our order dated 20.12.2006 made in W.P.Nos.34702 of 2006 etc., batch, upholding the stand taken by the Chennai Metropolitan Development Authority and the Chennai Metropolitan Water Supply and Sewerage Board. Accordingly, these writ petitions are dismissed on the same terms. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Secretary to Government,
   Housing & Urban Development Department,
   Chennai-600 009.

2. The Member Secretary,
   Chennai Metropolitan
   Development Authority,
   Thalamuthu Natarajan Building,
   No.1, Gandhi Irwin Road,
   Chennai-600 008.

3.The Chairman
  Chennai Metropolitan Water
  Supply and Sewerage Board
  No.1 Pumping Station Road
  Chennai 2.

1 cc to Government Pleader, sr. 64430
1 cc to Mr.P.B. Ramanujam, Advocate, Sr. 64375
1 cc to M/s. K. Elango, Advocate, Sr. 54163
8 ccs to M/s. Satish Parasaran, Advocate, sr. 64759
1 cc to M/s. George Cheriyan, Advocate, Sr. 64181
1 cc to Mr.A. Thirumurthy, Advocate, sr. 64638
1 cc to Mr. K.V. Babu, Advocate, sr. 64689
1 cc to Mr..P.B.Ramanujam, Advocate, sr. 64376

Writ Petition Nos.2816 of 1999
etc., batch

TS (CO)
kk,km,rvl,sr,gp,bp,nm, 5/2
Compared by Mt, Gs.

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